

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ROBERT McCONNELL, )  
Petitioner, ) 3:10-cv-0021-RCJ-RAM  
vs. )  
E.K. McDANIEL, *et al.*, )  
Respondents. )  
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This Scheduling Order is issued pursuant to Federal Rule of Civil Procedure 16(b), the Rules Governing Section 2254 Cases in the United States District Courts, and Local Rule 16-1.

On August 23, 2010, the court held a status conference. Counsel for petitioner and counsel for respondents appeared at the conference. At the conference, counsel addressed the anticipated course of proceedings in this action.

**IT IS ORDERED:**

1. **Amended Petition.** If necessary, petitioner shall file and serve an amended petition for a writ of habeas corpus on or before **December 3, 2010**. The amended petition shall contain all known grounds for relief, both exhausted and unexhausted. The amended petition shall specifically state whether each ground for relief has been exhausted in state court; for each claim that has been exhausted in state court, the amended petition shall state how, when, and where that occurred. If petitioner determines that

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1 an amended petition need not be filed, then, on or before the date when the amended petition is due,  
2 counsel for petitioner shall file and serve a statement to that effect.

3       2.     **Response to Petition.** Respondents shall have **60 days** following service of the amended  
4 petition to file and serve an answer or other response to the amended petition. If petitioner does not file  
5 an amended petition, respondents shall have **60 days** following the due-date for the amended petition to  
6 file and serve an answer or other response to the original petition.

7       3.     **Reply and Response to Reply.** Petitioner shall have **45 days** following service of an  
8 answer to file and serve a reply. Respondents shall thereafter have **30 days** following service of a reply  
9 to file and serve a response to the reply.

10      4.     **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss, petitioner shall  
11 have **30 days** following service of the motion to file and serve an opposition to the motion. Respondents  
12 shall thereafter have **30 days** following service of the opposition to file and serve a reply.

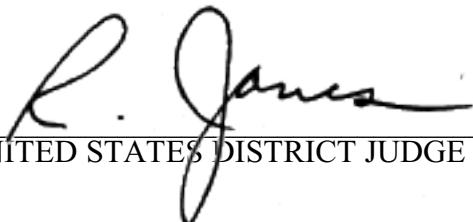
13      5.     **Discovery.** If petitioner wishes to move for leave to conduct discovery, petitioner shall  
14 file and serve such motion concurrently with, but separate from, the response to respondents' motion to  
15 dismiss or the reply to respondents' answer. Any motion for leave to conduct discovery filed by  
16 petitioner before that time may be considered premature, and may be denied, without prejudice, on that  
17 basis. Respondents shall file and serve a response to any such motion concurrently with, but separate  
18 from, their reply in support of their motion to dismiss or their response to petitioner's reply. Thereafter,  
19 petitioner shall have 20 days to file and serve a reply in support of the motion for leave to conduct  
20 discovery. If the court grants petitioner leave to conduct discovery, the court will then establish time  
21 limits for the completion of the authorized discovery.

22      6.     **Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing, petitioner  
23 shall file and serve a motion for an evidentiary hearing concurrently with, but separate from, the response  
24 to respondents' motion to dismiss or the reply to respondents' answer. Any motion for an evidentiary  
25 hearing filed by petitioner before that time may be considered premature, and may be denied, without  
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1 prejudice, on that basis. The motion for an evidentiary hearing must specifically address why an  
2 evidentiary hearing is required, and must meet the requirements of 28 U.S.C. § 2254(e). The motion  
3 must state whether an evidentiary hearing was held in state court, and, if so, state where the transcript  
4 is located in the record. If petitioner files a motion for an evidentiary hearing, respondents shall file and  
5 serve a response to that motion concurrently with, but separate from, their reply in support of their  
6 motion to dismiss or their response to petitioner's reply. Thereafter, petitioner shall have 20 days to file  
7 and serve a reply in support of the motion for an evidentiary hearing.

8       **7. Status Reports and Status Conferences.** The court may from time to time, as the need  
9 arises, schedule status conferences, and/or require the filing and service of status reports, in order to  
10 manage the progress of this action.

11              Dated this 23rd day of August, 2010.

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14              UNITED STATES DISTRICT JUDGE  
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